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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,709	01/18/2002	Joseph G. Buehl	43314/236952	5418

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EXAMINER	
SHELTON, BRIAN K	

ART UNIT	PAPER NUMBER
2611	4

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

KS

Office Action Summary	Application No.	Applicant(s)	
	10/054,709	BUEHL ET AL.	
	Examiner	Art Unit	
	Brian Shelton	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *18 January 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1-18 of this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mao in view of Kimble.

Regarding claim 1, Mao discloses a method of implementing a service in a cable system (paragraph 10) comprising:

(a) receiving at a set top box application level data generated by a service (paragraphs 53-54, describing retrieval of VOD asset data and delivery of VOD data to the set top box), where said application level data represents a service offering comprising:

service data identifying particular services within the service offering (paragraph 54, discussing VOD asset data comprising a

listing of assets which is formatted as VOD data and made available to the set top box; see Mao at claim 1, disclosing transmission of a list of VOD assets to the receiving station (where the receiving station is a set top box));

(b) identifying at least one of said particular service within said offering (paragraph 29, discussing subscriber selection of VOD program; see Mao at claim 1 disclosing a request for a given VOD program selected from the received asset list); and

(c) generating a session request to receive the identified particular service (paragraph 29, discussing communication of programming request to corresponding VOD system, see Mao at claim 1 where the request for a selected program is forwarded to the VOD server).

However, Mao fails to disclose application level data received at a set top box which comprises routing data identifying the location of the service or generating a session request including routing data.

Kimble, though, teaches a method of implementing a service in a cable system (paragraph 30) comprising receiving at a set top box application level data representing a service offering (paragraph 50, discussing an EPG listing video on demand programs) further comprising routing data identifying the location of said service in the cable system (paragraph 50, wherein the listing of VOD programs contain a Uniform Resource Locator (URL) associated with the individual programming content, see paragraph 30 wherein the "cable system"

comprises remote servers) and generating a session request to receive an identified service (paragraph 50, discussing evocation of media handler by browser interface) wherein the session request includes routing data (Fig. 9; paragraph 54,discussing generation of URL request directed to the respective VOD server) for the advantage of increasing the availability of programming to a cable system subscriber by allowing the user to obtain programming from multiple video on demand (VOD) sources.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Mao to include receiving application level data representing a service offering at a set top box wherein the application level data further comprises routing data identifying the location of said service and generating a session request to receive an identified service wherein the session request includes routing data, as taught by Kimble, for the advantage of increasing the availability of programming to a cable system subscriber by allowing the user to obtain programming from multiple video on demand (VOD) sources.

Apparatus claim 7 is rejected for the same rationale underlying the rejection of corresponding method claim 1.

As for claim 2, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 1. The limitation of claim 2 is encompassed by

the teachings of Mao in view of Kimble. Specifically, Mao discloses transmitting the session request to a service (paragraph 29, discussing selection of a video program and the communication to the appropriate VOD system), where the service is located at a headend of the cable system (paragraph 27; see Fig. 2A).

As for claim 3, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 2. The limitation of claim 3 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses parsing the session request at the service to extract the identified at least one particular service (paragraph 29, discussing processing of subscriber request at VOD system, see Mao at claim 1, describing receiving request for a given VOD program at a VOD server and the resulting reception of the requested given VOD program at the receiving station; see also Fig. 6, disclosing VOD Server 540 assigning a session ID and MPEG resource in response to receiving the session setup request).

As for claim 4, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 3. The limitation of claim 4 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses determining the location of the identified at least one particular service in the cable system (paragraph 29, discussing communicating subscriber request to appropriate VOD system; see also Mao at claim 6, wherein a aggregate listing of VOD assets is

formed following a request by a VOD gateway sent to first and second VOD systems, and the VOD gateway determines which of the first and second VOD servers contains a requested program).

As for claim 5, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 1. The limitation of claim 5 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses routing data which identifies the location of a session gateway in the cable system (see Fig. 2A, where gateway 70 comprises gateways 72, 74, and 76; see also paragraph 32, disclosing respective, i.e. plural, session gateways. The use of routing data in a networking system with a plurality of session gateways would necessarily include some indication of which session gateway is to be used in order to properly route the data to its intended destination (i.e., by identifying a path over a network, the routing data would include all communication points (e.g., router, hub, gateway, server, etc.) of the desired pathway)).

As for claim 6, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 1. The limitation of claim 6 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses generating a session request at a generic session manager of the STB (see paragraph 27 describing generic VOD client software) to receive the at least one identified service (see paragraphs 126-136 describing session setup following request

transmitted by generic client extender), wherein the session request comprises service data (paragraph 128, wherein the request comprises AssetID; see paragraph 2 where video programming is defined as an "asset"). Kimble discloses generating a session request to receive an identified particular service (paragraph 50, discussing selection of VOD program and corresponding Uniform Resource Locator (URL) data), wherein the session request comprises routing data (paragraph 50, wherein the URL corresponding to a selected VOD program comprises routing data).

Apparatus claim 8 is rejected for the same rationale underlying the rejection of corresponding method claim 6.

As for claim 9, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 7. The limitation of claim 9 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses a server located at a headend of the cable system in communication with a service (paragraph 36, discussing asset gateway comprising custom interface programs in communication with their respective VOD servers; see Fig. 2A disclosing network topology).

As for claim 10, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 9. The limitation of claim 10 is encompassed

by the teachings of Mao in view of Kimble. Specifically, Mao discloses a server comprising a session manager and a service communicating with the session manager to identify the particular service requested (see paragraphs 123-125 disclosing DSM—CC "client mode" architecture; paragraphs 129-130 describing session resource manager (SRM) operation; see also Mao at claim 6 disclosing program retrieval method).

As for claim 11, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 9. The limitation of claim 11 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses a server comprising a session manager, wherein the session manager communicates with the cable system to establish a communication path through which to implement the service (paragraphs 126-136, discussing session setup process in DSM-CC "client mode" embodiment, including session resource manager (SRM) assigning a network resource and, particularly, paragraph 136 disclosing client retrieval of resource descriptor with tuning information including stream control IP address).

As for claim 12, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 7. The limitation of claim 12 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses a session resource manager which identifies available resources of the cable system (see

paragraph 104 disclosing responsibilities of SRM for assigning network resources).

As for claim 13, Mao and Kimble are relied upon for the teachings as discussed relative to claim 7. The limitation of claim 13 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses a session gateway in communication with a set-top box and a service (Fig. 2A, see paragraph 27), wherein the request comprises routing information identifying the session gateway (see Fig. 2A, where gateway 70 comprises gateways 72, 74, and 76; see also paragraph 32, disclosing respective, i.e. plural, session gateways. The use of routing data in an networking system with a plurality of session gateways would necessarily include some indication of which session gateway is to be used in order to properly route the data to its intended destination).

As for claim 14, Mao and Kimble are relied upon for the teachings as discussed relative to claim 13. The limitation of claim 14 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses a service gateway is communication with a session gateway (Fig. 2A, see paragraph 27), and wherein the request comprises routing information identifying the service gateway (see Fig. 2A, where gateway 70 comprises gateways 72, 74, and 76; see also paragraph 32, disclosing respective, i.e. plural, asset gateways. The use of routing data in a networking system with a plurality of asset gateways would

necessarily include some indication of which asset gateway is to be used in order to properly route the data to its intended destination).

As for claim 15, Mao discloses a method of fulfilling a session request in a cable system (see Mao at claim 1) comprising:

(a) receiving a request at a service (Mao at claim 1, describing forwarding a request from "receiving station" for a given VOD program to a "VOD server," where a "VOD server" is a "service"), wherein the session request identifies the generator of the session request (see Fig. 6 describing contents of request message, where VOD Server 540 receives a request comprising a ClientID, where the ClientID identifies the receiving station which originated the request);

(b) parsing said session request to identify at least one particular service identified within said session request (Mao at claim 1, describing receiving request for a given VOD program at a VOD server and the resulting reception of the requested given VOD program at the receiving station; see Fig. 6, disclosing VOD Server 540 assigning a session ID and MPEG resource in response to receiving the session setup request) ; and

(c) forwarding said at least one particular service identified within said session request to said generator (Mao at claim 1, where the VOD program is received at the receiving station; see paragraph 29, disclosing

delivery of a selected program by the VOD pump within the selected VOD service to the subscriber).

However, Mao fails to disclose a session request which identifies the location of a service within the cable system.

Kimble, though, teaches a method of fulfilling a session request in a cable system wherein the session request identifies the location of the service in the cable system (paragraph 50, wherein the listing of VOD programs contain a Uniform Resource Locator (URL) associated with the individual programming content, see paragraph 30 wherein the "cable system" comprises remote servers; see paragraph 50, discussing evocation of media handler by browser interface, see Fig. 9; see paragraph 54,discussing generation of URL request directed to the respective VOD server) for the advantage of increasing the availability of programming to a cable system subscriber by allowing the user to obtain programming from multiple video on demand (VOD) sources.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Mao to include a session request which identifies the location of the service in the cable system, as taught by Kimble, for the advantage of increasing the availability of programming to a cable system subscriber by allowing the user to obtain programming from multiple video on demand (VOD) sources.

As for claim 16, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 15. The limitation of claim 16 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses querying a service to determine the location of a particular service in the cable system (Mao at claim 1, describing retrieval of a list of assets, see also Mao at claim 6, wherein a aggregate listing of VOD assets is formed following a request by a VOD gateway sent to first and second VOD systems, and the VOD gateway determines which of the first and second VOD servers contains a requested program).

As for claim 17, Mao and Kimble are relied upon for the teachings as discussed above relative to claim 16. The limitation of claim 17 is encompassed by the teachings of Mao in view of Kimble. Specifically, Mao discloses executing, at a service, an instruction to the determined location to forward the particular service to the generator (Mao at claim 1, where the VOD program is received at the receiving station; see paragraph 29, disclosing delivery of a selected program by the VOD pump within the selected VOD service to the subscriber).

Claim 18 is rejected for the same rationale underlying the rejection of corresponding method claim 6.

Conclusion

4. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Shelton whose telephone number is (703) 305-4700. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Brian Shelton
Examiner
Art Unit 2611

BS

CHRIS GRANT
PRIMARY EXAMINER